

1 GEORGE A. RILEY (Bar No. 118304)
griley@omm.com
2 MICHAEL F. TUBACH (Bar No. 145955)
mtubach@omm.com
3 CHRISTINA J. BROWN (Bar No. 242130)
cjbrown@omm.com
4 O'MELVENY & MYERS LLP
Two Embarcadero Center, 28th Floor
5 San Francisco, CA 94111-3823
Telephone: (415) 984-8700
6 Facsimile: (415) 984-8701

7 Attorneys for Defendant Apple Inc.

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9 **UNITED STATES DISTRICT COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**
11 **SAN JOSE DIVISION**

12
13 IN RE HIGH-TECH EMPLOYEE
ANTITRUST LITIGATION

14
15 THIS DOCUMENT RELATES TO:
16 ALL ACTIONS

Master Docket No. 11-CV-2509-LHK

**DECLARATION OF CHRISTINA BROWN
IN SUPPORT OF DEFENDANTS' JOINT
MOTION TO STRIKE THE IMPROPER
REBUTTAL TESTIMONY IN DR.
LEAMER'S REPLY EXPERT REPORT
OR, IN THE ALTERNATIVE, FOR
LEAVE TO SUBMIT A REPLY REPORT
OF DR. STIROH**

Date: March 20, 2014 and
March 27, 2014
Time: 1:30 p.m.
Courtroom: 8, 4th Floor
Judge: The Honorable Lucy H. Koh

1 I, Christina Brown, declare as follows:

2 1. I am a member of the Bar of the State of California and a counsel of the law firm
3 of O'Melveny & Myers LLP, attorneys for Defendant Apple Inc. I submit this declaration in
4 support of Defendants' Joint Motion to Strike the Improper Rebuttal Testimony of Dr. Leamer or,
5 in the Alternative, for Leave to Submit a Reply Report of Dr. Stiroh. I make this declaration
6 based on my own personal knowledge. If called to testify as a witness, I could and would do so
7 competently.

8 2. During the class-certification phase of this litigation, Dr. Leamer submitted four
9 expert reports: one on October 1, 2012; one on December 10, 2012; one on May 10, 2013; and
10 one on July 12, 2013. On October 28, 2013, Dr. Leamer submitted his initial merits expert report,
11 and on December 11, 2013, he submitted a reply expert report.

12 3. On December 23, 2013, I sent Plaintiffs a letter from Defendants by e-mail,
13 explaining why portions of Dr. Leamer's reply report constituted improper rebuttal and seeking
14 Plaintiffs' agreement to allow Dr. Stiroh to respond to Dr. Leamer's arguments at trial and submit
15 a reply report addressing the new issues raised in his reply.

16 4. On December 26, 2013, Plaintiffs and Defendants met and conferred by telephone
17 to discuss the issues raised in Defendants' December 23, 2013 letter.

18 5. On December 28, 2013, I sent Plaintiffs a further letter from Defendants by e-mail,
19 attaching a proposed reply expert report by Dr. Stiroh responding to Dr. Leamer's new arguments
20 and analyses.

21 6. On January 3, 2014, Plaintiffs responded by e-mail, indicating that Plaintiffs
22 would not agree to the submission of Dr. Stiroh's proposed reply report.

23 7. Attached hereto as Exhibit 1 is a true and correct copy of an email dated March 13,
24 2013, between Robert Mittelstaedt and Joseph Saveri, Kelly Dermody, and Brendan Glackin,
25 counsel for Plaintiffs.

26 8. Attached hereto as Exhibit 2 is a true and correct copy of excerpts of the transcript
27 from the April 8, 2013 Case Management Conference.
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9. Attached hereto as Exhibit 3 is a true and correct copy of the Initial Class Certification Expert Report of Edward E. Leamer, Ph.D., dated October 1, 2012.

10. Attached hereto as Exhibit 4 is a true and correct copy of the Reply Expert Report of Edward E. Leamer, Ph.D., dated December 10, 2012.

11. Attached hereto as Exhibit 5 is a true and correct copy of the Supplemental Expert Report of Edward E. Leamer, Ph.D., dated May 10, 2013.

12. Attached hereto as Exhibit 6 is a true and correct copy of the Initial Merits Expert Report of Edward E. Leamer, Ph.D., dated October 28, 2013.

13. Attached hereto as Exhibit 7 is a true and correct copy of the Expert Report of Lauren J. Stiroh, Ph.D., dated November 25, 2013.

14. Attached hereto as Exhibit 8 is a true and correct copy of the Reply Expert Report of Edward E Leamer, Ph.D., dated December 11, 2013.

I declare under penalty of perjury under the laws of the United States that the above is true and correct. Executed on January 9, 2014, in San Francisco, California.

/s/ Christina J. Brown
Christina J. Brown